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U.S. DISTRICT COURT
DISTRICT OF MASS

UNITED STATES DISTRICT COURT
Western District of Massachusetts

KEITH BRIAN ASKINS)

Plaintiff)

v.)

WILLIAM C. WERNICKI TRUCKING)

Defendant)

Civil Action No.04-30178-KPN

February 27, 2006

JOINT TRIAL MEMORANDUM

Trial Counsel

Attorney for Plaintiff

Attorney Barry E. O'Connor
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Attorney for Defendant

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1. STATEMENT OF THE EVIDENCE:

The parties expect that evidence will be presented that shows that the plaintiff, Keith Askins, is an employee of the United States Postal Service. On September 22, 2001,

the plaintiff was working at the Chicopee Annex of the United States Postal Service Bulk Mail Center. The plaintiff was working a shift from 8:00 a.m. to 4:30 p.m. on the date of the incident. The plaintiff entered a trailer which he claims was owned by the defendant William C. Wernicki Trucking to tag skids of mail. The plaintiff will offer testimony that his right leg went through the floor of the trailer injuring his knee. The injury resulted in the plaintiff undergoing surgery for a torn medial meniscus and causing the plaintiff to remain out of work for a period of time. Evidence will be offered that the defendant had no knowledge of the defect located in the trailer which caused the plaintiff's injuries. There will also be evidence that the plaintiff had suffered prior injuries to his right knee which resulted in multiple surgeries.

2. STATEMENT OF FACTS:

- A. On or about September 22, 2001 Keith Askins was working for the United States Postal Service.
- B. On or about September 22, 2001, the plaintiff Keith Askins was working at the Chicopee Annex of the Springfield Bulk Mail Center.
- C. The defendant William C. Wernicki Trucking is a Connecticut Corporation with a principal office and place of business at 822 West Thames Street, Norwich, Connecticut.
- D. The defendant William C. Wernicki Trucking was at all relevant times to this action a duly organized corporation within the state of Connecticut.

3. CONTESTED ISSUES OF FACT:

- A. Whether the trailer in which the plaintiff claims he was injured was owned by the defendant.
- B. Whether the defendant had notice either actual or constructive of any defect in the trailer.
- C. Whether a dock light located at the loading dock where the plaintiff was working was operable and whether or not it was on or off at the time of the plaintiff's claimed injury.

4. JURISDICTIONAL QUESTIONS:

There are no jurisdictional question.

5. QUESTIONS RAISED BY PENDING MOTIONS:

There are no pending motions.

6. ISSUE OF LAW INCLUDING EVIDENTIARY ISSUES:

7. REQUESTED AMENDMENTS TO THE PLEADINGS:

There are no requested amendments.

8. ADDITIONAL MATTERS TO AID IN DISPOSITION OF THE CASE:

There are no additional matters.

9. PROBABLE LENGTH OF TRIAL AND WHETHER JURY OR NON JURY:

This is a jury trial. The probable length of trial is two (2) days.

10. WITNESSES WHO WILL TESTIFY AT TRIAL AND THE PURPOSE OF THEIR TESTIMONY:

- A. Mr. William C. Wernicki, 106 Dairy Hill Road, Uncasville, Connecticut. The purpose of Mr. Wernicki's testimony will be to establish the procedures by which his trailers haul mail to the bulk mail center located in Springfield, Massachusetts. Proof that Wernicki Trucking did not have notice of the claimed defect located in the trailer.
- B. Mr. William C. Wernicki, Jr., 106 Dairy Hill Road, Uncasville, Connecticut. The purpose of Mr. Wernicki's testimony will be to establish the procedures by which his trailers haul mail to the bulk mail center located in Springfield, Massachusetts. Proof that Wernicki Trucking did not have notice of the claimed defect located in the trailer.
- C. Mr. Daniel Pisano, 105 Kensington Street, Feeding Hills, Massachusetts. The purpose of Mr. Pisano's testimony will be to describe the area where the plaintiff was working on the day of the incident and to testify regarding the plaintiff's ability to perform his job both before and after the incident.
- D. Mr. Michael J. Aiello, Sr., 8 Noreen Drive, South Hampton, Massachusetts. The purpose of Mr. Aiello's testimony is to explain the area where the plaintiff was working on the day of the incident, the plaintiff's job responsibilities and the operation/function of the dock lights located at the bulk mail facility where the trailers are unloaded.
- E. Sandy Rose, Dock Clerk, 57 Apple Blossom, Westfield, Massachusetts. The purpose of Ms. Rose's testimony is to explain the condition of the area surrounding the accident.
- F. Donnie Webb, Dock Clerk, 440 Dewey Street, West Springfield, Massachusetts.

The purpose of Ms. Rose's testimony is to explain the condition of the area surrounding the accident.

- G. Mike Ieallo, Supervisor USPS, 190 Ibeland Street, Springfield, Massachusetts. The purpose of Mr. Ieallo's testimony is to explain his present work capacity.
- H. Keith Brian Askins, 288 Center Street, Indian Orchard, Massachusetts. The purpose of Mr. Askins's testimony is to explain what occurred the day of the accident and medical treatment.
- I. Carol Flebotte, Hurman Resources Associate, USPS, 190 Fiberloid Street, Springfield, Massachusetts. The purpose of Ms. Flebotte's testimony is to explain the medical and indemnity losses to the employee.

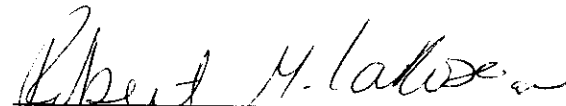
11. PROPOSED EXHIBITS:

- A. U.S. Postal Service Accident Report
- B. William C. Wernicki Trucking Company, Lube Inspection Reports
- C. William C. Wernicki Trucking record of annual inspection dated 2/1/00 and 2/1/01
- D. Medical Records of Dr. Mark Goldman
- E. Medical Records from Baystate Medical Center
- F. Photograph of Dock

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Keith Brian Askins
Consents:


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